



PATENT
Customer No. 22,852
Attorney Docket No. 09526.0001-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Jacques FASTREZ et al.) Group Art Unit: 1652
)
Application No.: 08/978,607) Examiner: T. Saidha
)
Filed: November 11, 1997) Confirmation No.: 4607
)
For: CHIMERIC TARGET MOLECULES) **Mail Stop Petition**
HAVING A REGULATABLE)
ACTIVITY)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION UNDER 37 C.F.R. § 1.183 TO WAIVE
THE REQUIREMENTS OF 37 C.F.R. § 41.33(b)**

Applicants hereby respectfully petition the Commissioner to waive the requirements of 37 C.F.R. § 41.33(b) to enable the Patentees correct a spelling error in the claims on appeal.

In an Amendment mailed January 21, 2000, Applicants amended the as-filed claims to change the spelling of the term "mimotope" to "mimetope." See Amendment Under 37 C.F.R. § 1.116 mailed January 21, 2000, page 2. The spelling change was entered by the Examiner without comment. See Office Action mailed March 15, 2000, page 2.

In reply to the Final Office Action mailed April 1, 2003, Applicants, after

~~discussing the matter with~~

Examiner Saidha, amended the claims on February 7, 2005,

04/01/2005 JADD01

01 FC:1462

270.00 DA

130.00 DP

04/01/2005 JADD01 00000082 08978607

01 FC:1462

270.00 DA

130.00 DP

to correct certain formal matters. See Second Amendment After Final filed February 7, 2005 ("Second Amendment After Final"). The amended claims continued to use the term "mimetope." See *id.* On February 10, 2005, Applicants filed a brief appealing the April 1, 2003, final Office Action and the July 30, 2003, Advisory Action. See Appeal Brief Under Board Rule 41.37 filed February 10, 2005 ("Appeal Brief"). The Claims Appendix to the Appeal Brief listed the claims as amended on February 7, 2005. The Appeal Brief also used the term "mimetope" throughout.

In a telephonic interview on March 30, 2005, Examiner Saidha informed Applicants' undersigned representative that a review of the application indicated that support for the term "mimetope" was lacking. In fact, the application as-filed consistently spells the term "mimotope."

Examiner Saidha indicated that he would accept a supplemental amendment correcting the spelling of this claim term. Because Applicants have already filed their Appeal Brief, however, Rule 41.33(b) permits only those amendments to (1) cancel claims or (2) to rewrite dependent claims into independent form. See 37 C.F.R. § 41.33(b). Applicants instead wish to make an amendment that appears not to be contemplated by the Rules, i.e., to conform the spelling of a claim term to the spelling of that term in the specification. Applicants respectfully request that the Commissioner waive the requirements of 37 C.F.R. § 41.33(b) to permit the entry of the attached Supplemental Amendment After Final, which amends only the spelling of "mimotope," and of the attached Substitute Appeal Brief, which reflects the supplemental amendment, for the Appeal Brief filed February 10, 2005.

Applicants submit herewith the required petition fee of \$130.00 for this petition under 37 C.F.R. § 1.183. If there are any other fees due in connection with the filing of this Petition, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 31, 2005

By:



William L. Strauss

Reg. No. 47,114